

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.489 OF 1997

The Commissioner of Income Tax
Nasik .. Applicant.

V/s.

Shankar S.S.K. Ltd. Nanded .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

Whether on the facts and in the circumstances
of the case the ITAT relying on the decision
of its Special Bench in the case of Shri
Chhatrapati SSK Ltd. (198 ITR 78 - AT) was
right in deleting the following additions by
the sugarcane purchase price payable to the
cane growers are not trading receipts of the
assessee.

	Assessment Years	
	1990-91	1991-92
1. Non-refundable deposits	258824	520128
2. Chief Minister's fund	151430	263472
3. Cane development fund	605719	1658608
4. Hutment fund	75714	-
5. Flood relief fund	8207	212087
6. Interest on N.R.D.	14721	212094

7. Gharkool Yojana	-	131736
8. Area Development fund	-	848349

2. In so far as all other items for both the assessment years except area development fund and cane development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Area Development Fund and Cane Development Fund for both the assessment years are concerned, the issues will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issues stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)